



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TEXAS 75202-2733

DEC 07 2011

CERTIFIED MAIL - RETURN RECEIPT REQUESTED: (7005 1820 0003 7453 9226)

Mr. James Sinclair, Owner
J. D. Sinclair Production, Inc.
1056 Crain City Road
El Dorado, AR 71730

Re: Notice of Proposed Assessment of Class I Civil Penalty
Docket Number: CWA-06-2012-1701
Facility Number: ARU000075

Dear Mr. Sinclair:

Enclosed is an Administrative Complaint (Complaint) issued to J.D. Sinclair Production, Inc. for violation of Section 301(a) of the Clean Water Act. The violation was identified as a result of an inspection, conducted by the Environmental Protection Agency (EPA) on February 15, 2011, at your oil field production facility located in Union County Arkansas. The violation alleged is for the unauthorized discharge of a pollutant, specifically oil field brine and produced wastewater, to waters of the United States. An Administrative Order (AO), Docket Number CWA-06-2011-1784, was issued on March 7, 2011, addressing this same violation. Compliance with the previously issued AO was verified on June 21, 2011, during an inspection conducted by EPA.

You, as the representative of J. D. Sinclair Production, Inc., have the right to request a hearing regarding the violations alleged in the Complaint and the proposed administrative civil penalty. Please pay particular attention to Section V of the Complaint entitled "Notice of Opportunity to Request a Hearing." Note that should you fail to request a hearing within thirty (30) days of receipt of the Complaint, you will waive your right to such a hearing, and the proposed civil penalty of \$3,200.00 may be assessed against you without further proceedings. You have the right to be represented by an attorney or to represent J. D. Sinclair Production, Inc., yourself at any stage of these proceedings.

Whether or not you request a hearing, we invite you to confer informally with EPA concerning the alleged violation and the amount of the proposed penalty. You may represent J. D. Sinclair Production, Inc. or be represented by an attorney at any conference, whether in person or by telephone. EPA encourages all parties against whom it files a Complaint proposing assessment of a penalty to pursue the possibility of settlement as a result of an informal conference.

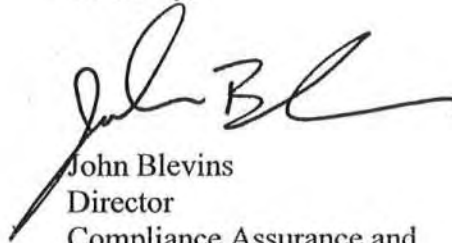
Also, enclosed for your review and signature is a Consent Agreement and Final Order (CAFO) that specifies the proposed settlement terms and agreement between EPA and J. D. Sinclair Production, Inc., resolving the violation alleged in the Complaint. If you wish to enter into this settlement agreement, please sign, date, and return the CAFO to Mr. Tom Rucki (6RC-EW) at the address above.

If you agree to settle this matter by signing and returning the enclosed CAFO, EPA will solicit public comments, which may impact the settlement. After consideration of public comments, EPA will sign and issue the CAFO which is effective upon filing with the Regional Hearing Clerk. Please do not send payment of the penalty until you receive the CAFO signed by EPA. By signing the CAFO and agreeing to settle the case, you waive your right to a hearing on, and to a judicial appeal of, the agreed civil penalty specified in the CAFO.

Please also find enclosed an "Information Sheet" relating to the Small Business Regulatory Enforcement Fairness Act and a "Notice of Registrant's Duty to Disclose" relating to the disclosure of environmental legal proceedings to the Securities and Exchange Commission.

EPA is committed to ensuring compliance with the requirements of the National Pollutant Discharge Elimination System program, and my staff will assist you in any way possible. If you have any questions, or wish to discuss the possibility of a settlement of this matter, please contact Mr. Matt Rudolph, of my staff, at (214) 665-6434.

Sincerely,



John Blevins
Director
Compliance Assurance and
Enforcement Division

Enclosures

cc: w/complaint-Regional Hearing Clerk

Mr. Steve Drown
Water Division Manager
Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, AR 72118-5317

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6

FILED

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In the Matter of	§	Docket No. CWA-06-2012-1701
	§	
	§	
J. D. Sinclair Production, Inc.	§	Proceeding to Assess a Class I
	§	Civil Penalty under Section 309(g)
	§	of the Clean Water Act
Respondent	§	
	§	ADMINISTRATIVE COMPLAINT
Facility No. ARU000075	§	

REGIONAL HEARING CLERK
EPA REGION VI

I. Statutory Authority

This Complaint is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (“EPA”) by Section 309(g) of the Clean Water Act (“Act”), 33 U.S.C. § 1319(g). The Administrator of EPA delegated the authority to issue this Complaint to the Regional Administrator of EPA Region 6, who further delegated this authority to the Director of the Compliance Assurance and Enforcement Division of EPA Region 6 (“Complainant”). This Class I Administrative Complaint is issued in accordance with, and this action will be conducted under, the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits,” including rules related to administrative proceedings not governed by Section 554 of the Administrative Procedures Act, 40 C.F.R. §§ 22.50 through 22.52.

Based on the following Findings of Fact and Conclusions of Law, Complainant finds that Respondent violated the Act and the regulations promulgated under the Act and should be ordered to pay a civil penalty.

II. Findings of Fact and Conclusions of Law

1. J. D. Sinclair Production, Inc. (“Respondent”) is a company incorporated under the laws of the State of Arkansas, and as such, Respondent is a “person,” as that term is defined at Section 502(5) of the Act, 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2.

2. At all times relevant to this action (“all relevant times”), Respondent owned or ~~operated an oil field production facility, located in the Northeast Quarter of Section 10,~~ Township 17 South, Range 14 West, in Union County, Arkansas (“facility”), and was therefore an “owner or operator” within the meaning of 40 C.F.R. § 122.2.

3. At all relevant times, the facility was a “point source” of a “discharge” of “pollutants,” specifically oil field brine and produced wastewater, to the receiving waters of Mills Creek, which is considered a “water of the United States” within the meaning of Section 502 of the Act, 33 U.S.C. § 1362, and 40 C.F.R. § 122.2.

4. Because Respondent owned or operated a facility that acted as a point source of a discharge of pollutants to waters of the United States, Respondent and the facility were subject to the Act and the National Pollutant Discharge Elimination System (“NPDES”) program.

5. Under Section 301 of the Act, 33 U.S.C. § 1311, it is unlawful for any person to discharge any pollutant from a point source to waters of the United States, except with the authorization of, and in compliance with, a NPDES permit issued pursuant to Section 402 of the Act, 33 U.S.C. § 1342. According to the NPDES program, the discharge of oil field brine to “waters of the United States” is a non-permitted discharge.

6. On February 15, 2011, the facility was inspected by an EPA field inspector. The inspector observed that oil field brine and produced wastewater had been discharged from the facility’s secondary containment, located at Latitude 33° 15.391’ North and Longitude 92° 32.087’ West, to Mill Creek, located at Latitude 33° 15.490’ North and Longitude 92° 32.060’ West. The inspector determined that the water at the point of entry contained 5,600 parts-per-million total soluble salts.

7. Each day of unauthorized discharge was a violation of Section 301 of the Act,

33 U.S.C. § 1311.

8. Under Section 309(g)(2)(A) of the Act, 33 U.S.C. § 1319(g)(2)(A), Respondent is liable for a civil penalty in an amount not to exceed \$16,000 per day for each day during which a violation occurs or continues, up to a maximum of \$37,500.

9. EPA has notified the Arkansas Department of Environmental Quality (“ADEQ”) of the issuance of this Complaint and has afforded ADEQ an opportunity to consult with EPA regarding the assessment of an administrative penalty against Respondent as required by Section 309(g)(1) of the Act, 33 U.S.C. § 1319(g)(1).

10. EPA has notified the public of the filing of this Complaint and has afforded the public thirty (30) days in which to comment on the Complaint and on the proposed penalty as required by Section 309(g)(4)(A) of the Act, 33 U.S.C. § 1319(g)(4)(A). At the expiration of the notice period, EPA will consider any comments filed by the public.

III. Proposed Penalty

11. Based on the foregoing Findings, and pursuant to the authority of Sections 309(g)(1) and (g)(2)(A) of the Act, 33 U.S.C. §§ 1319(g)(1) and (g)(2)(A), EPA Region 6 hereby proposes to assess against Respondent a civil penalty of three thousand two hundred dollars (\$3,200.00).

12. The proposed penalty amount was determined based on the statutory factors specified in Section 309(g)(3) of the Act, 33 U.S.C. § 1319(g)(3), which includes such factors as the nature, circumstances, extent and gravity of the violation(s), economic benefits, if any, prior history of such violations, if any, degree of culpability, and such matters as justice may require.

13. Complainant has specified that the administrative procedures specified in 40 C.F.R. Part 22, Subpart I shall apply to this matter, and the administrative proceedings shall not be governed by Section 554 of the Administrative Practice Act.

IV. Failure to File an Answer

14. If Respondent wishes to deny or explain any material allegation listed in the above Findings or to contest the amount of the penalty proposed, Respondent must file an Answer to this Complaint within thirty (30) days after service of this Complaint whether or not Respondent requests a hearing as discussed below.

15. The requirements for such an Answer are set forth at 40 C.F.R. § 22.15 (copy enclosed). Failure to file an Answer to this Complaint within thirty (30) days of service of the Complaint shall constitute an admission of all facts alleged in the Complaint and a waiver of the right to hearing. Failure to deny or contest any individual material allegation contained in the Complaint will constitute an admission as to that finding or conclusion under 40 C.F.R. § 22.15(d).

16. If Respondent does not file an Answer to this Complaint within thirty (30) days after service, a Default Order may be issued against Respondent pursuant to 40 C.F.R. § 22.17. A Default Order, if issued, would constitute a finding of liability, and could make the full amount of the penalty proposed in this Complaint due and payable by Respondent without further proceedings thirty (30) days after a Final Default Order is issued.

17. Respondent must send its Answer to this Complaint, including any request for a Hearing, and all other pleadings to:

Regional Hearing Clerk (6RC-D)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Respondent shall also send a copy of its Answer to this Complaint to the following EPA attorney assigned to this case:

Mr. Tom Rucki (6RC-EW)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

18. The Answer must be signed by Respondent, Respondent's counsel, or other representative on behalf of Respondent and must contain all information required by 40 C.F.R. §§ 22.5 and 22.15, including the name, address, and telephone number of Respondent and Respondent's counsel. All other pleadings must be similarly signed and filed.

V. Notice of Opportunity to Request a Hearing

19. Respondent may request a hearing to contest any material allegation contained in this Complaint, or to contest the appropriateness of the amount of the proposed penalty, pursuant to Section 309(g) of the Act, 33 U.S.C. § 1319(g). The procedures for hearings are set out at 40 C.F.R. Part 22, including 40 C.F.R. §§ 22.50 through 22.52.

20. Any request for hearing should be included in Respondent's Answer to this Complaint; however, as discussed above, Respondent must file an Answer meeting the requirements of 40 C.F.R. § 22.15 in order to preserve the right to a hearing or to pursue other relief.

21. Should a hearing be requested, members of the public who commented on the issuance of the Complaint during the public comment period will have a right to be heard and to present evidence at such hearing under Section 309(g)(4)(B) of the Act, 33 U.S.C. § 1319(g)(4)(B).

VI. Settlement

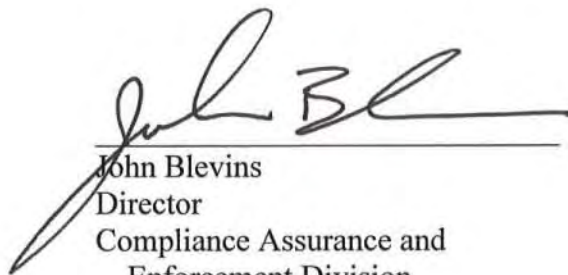
22. EPA encourages all parties against whom civil penalties are proposed to pursue the possibility of settlement through informal meetings with EPA. Regardless of whether a formal hearing is requested, Respondent may confer informally with EPA about the alleged violations or the amount of the proposed penalty. Respondent may wish to appear at any informal conference or formal hearing personally, by counsel or other representative, or both. To request an informal conference on the matters described in this Complaint, please contact Mr. Matt Rudolph, of my staff, at (214) 665-6434.

23. If this action is settled without a formal hearing and issuance of an opinion by the Presiding Officer pursuant to 40 C.F.R. § 22.27, this action will be concluded by issuance of a

Consent Agreement and Final Order (“CAFO”) pursuant to 40 C.F.R. § 22.18(b). The issuance of a CAFO would waive Respondent’s right to a hearing on any matter stipulated therein or alleged in the Complaint. Any person who commented on this Complaint would be notified and given an additional thirty (30) days to petition EPA to set aside any such CAFO and to hold a hearing on the issues raised in the Complaint. Such a petition would be granted and a hearing held only if the evidence presented by the petitioner’s comment was material and was not considered by EPA in the issuance of the CAFO.

24. Neither assessment nor payment of a penalty in resolution of this action will affect Respondent’s continuing obligation to comply with all requirements of the Act, the applicable regulations and permits, and any separate Compliance Order issued under Section 309(a) of the Act, 33 U.S.C. § 1319(a), including one relating to the violations alleged herein.

12.7.11
Date



John Blevins
Director
Compliance Assurance and
Enforcement Division

CERTIFICATE OF SERVICE

I certify that the foregoing Class I Administrative Complaint was sent to the following persons, in the manner specified, on the date below:

Original hand-delivered: Regional Hearing Clerk (6RC-D)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Copy by certified mail,
return receipt requested: Mr. J. D. Sinclair, Owner
J. D. Sinclair Production, Inc.
1056 Crain City Road
El Dorado, AR 71730

Copy by mail: Mr. Steve Drown
Water Division Manager
Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, AR 72118-5317

Copy hand-delivered: Mr. Tom Rucki (6RC-EW)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Dated: 12-12-2011 Lorie Jackson